

Human Trafficking and Vulnerability of Children in India: A Constitutional and Human Rights Analysis

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Abstract: Human trafficking involving children is one of the most serious forms of exploitation because it attacks liberty, dignity, bodily integrity, education, health, family life and the developmental interests of the child simultaneously. Children may be trafficked for forced labour, commercial sexual exploitation, domestic servitude, begging, forced marriage, illegal adoption, criminal activities, slavery-like practices or removal of organs. Their vulnerability is rarely produced by a single factor. Poverty, migration, family breakdown, social exclusion, school discontinuation, gender discrimination, displacement, disability, weak birth registration, digital manipulation and organised criminal networks may intersect to expose children to recruitment and exploitation. From a constitutional perspective, child trafficking in India is not merely a criminal-law issue. Article 23 of the Constitution expressly prohibits trafficking in human beings and forced labour, while Articles 14, 21, 21-A and 24, together with Articles 39(e), 39(f), 45 and 51A(k), construct a wider framework for equality, dignity, education, protection against exploitation and development of children. Article 23 therefore transforms anti-trafficking action from an optional welfare function into a constitutional responsibility. The Constitution expressly prohibits traffic in human beings and employment of children below fourteen years in factories, mines and hazardous employment.

India has developed a substantial statutory framework through the Bharatiya Nyaya Sanhita, 2023, the Protection of Children from Sexual Offences Act, 2012, the Juvenile Justice (Care and Protection of Children) Act, 2015, the Immoral Traffic (Prevention) Act, 1956, the Bonded Labour System (Abolition) Act, 1976, the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 and the Right of Children to Free and Compulsory Education Act, 2009. Section 143 of the Bharatiya Nyaya Sanhita criminalises trafficking and prescribes enhanced punishment where the victim is a child, while Section 144 penalises exploitation of trafficked persons, including sexual exploitation of trafficked children.

Despite this framework, implementation remains challenging. A Ministry of Home Affairs parliamentary reply dated 12 August 2026 stated that the latest NCRB *Crime in India* report available was for 2024 and that 819 Anti-Human Trafficking Units had been established across States and Union Territories as of 31 December 2024. The same official material demonstrates the continuing institutional challenge posed by missing children, although missing-child statistics must never automatically be equated with trafficking statistics.

This article analyses child trafficking through constitutional governance and international human-rights law. It argues that effective protection requires a shift from a narrow rescue-and-punishment approach toward prevention, early identification, child-sensitive investigation, prosecution, compensation, rehabilitation, education, family assessment and prevention of re-trafficking. Children subjected to trafficking must be treated as constitutional rights-holders rather than merely witnesses in criminal prosecutions. The ultimate measure of an effective anti-trafficking system is therefore not only the number of arrests made but the extent to which the State restores the child's dignity, autonomy, education, security and opportunity for development.

Keywords: Human Trafficking; Child Trafficking; Child Vulnerability; Constitutional Rights; Article 23; Child Exploitation; Human Rights; Bharatiya Nyaya Sanhita; POCSO Act; Juvenile Justice; Forced Labour; Child Labour; Commercial Sexual Exploitation; Rehabilitation; Anti-Human Trafficking Units

INTRODUCTION

Human trafficking is a complex form of exploitation in which individuals are recruited, transported, transferred, harboured or received for exploitative purposes through coercion, deception, abuse of vulnerability or other prohibited means. In the case of children, international law appropriately applies a more protective standard because the recruitment, transportation, transfer, harbouring or receipt of a child for exploitation constitutes trafficking even where the coercive or deceptive “means” required in adult trafficking cases are absent. The Palermo Protocol defines a child as a person below eighteen years and expressly removes the requirement of proving the means element in child-trafficking cases.

Child trafficking should not be confused exclusively with kidnapping or movement across international borders. A child can be trafficked within the same city, district or State. Physical movement is not the essence of the offence; exploitation is. A child recruited from a vulnerable household and placed in domestic servitude, a factory, begging network, commercial sexual exploitation or forced criminal activity may be trafficked even without crossing a State or national boundary.

The vulnerability of children arises primarily from their limited economic independence, developmental immaturity and dependence upon adults. Children often possess little ability to verify employment promises, resist coercive authority, understand contractual implications or escape exploitative environments. Traffickers use precisely these vulnerabilities. They may present themselves as employment agents, relatives, marriage intermediaries, charitable workers or persons offering education and vocational opportunities.

The social realities surrounding trafficking are equally significant. Poverty does not automatically produce trafficking, but persistent economic deprivation can increase susceptibility to deceptive recruitment. Migration may weaken community networks. School discontinuation removes an important protective institution from a child's life. Family conflict, abandonment, parental death, homelessness or institutionalisation may leave children dependent upon strangers. Gender discrimination can expose girls to trafficking for sexual exploitation or forced marriage, while boys may face trafficking for labour, begging, criminal activities and other forms of exploitation. Children with disabilities may be particularly vulnerable to forced begging and institutional abuse.

Technology has changed trafficking patterns further. Social-media platforms, messaging applications, online gaming spaces and digital employment advertisements create new opportunities for grooming and deceptive recruitment. Children can be manipulated without an offender initially approaching them physically. Digital sexual exploitation may also continue long after physical rescue where abusive images remain online.

The constitutional significance of these harms is profound. Article 23 of the Constitution expressly prohibits trafficking in human beings, begar and similar forms of forced labour. Article 24 protects children below fourteen from specified forms of hazardous employment. Article 21 guarantees life and personal liberty and has been interpreted expansively to include dignity. Article 21A recognises free and compulsory education for children between six and fourteen years.

Articles 39(e) and 39(f) strengthen this framework by requiring State policy to prevent abuse of the tender age of children and to ensure that children develop in conditions of freedom and dignity, protected against exploitation and abandonment. Article 45 addresses early childhood care and education, while Article 51A(k) places a corresponding responsibility upon parents or guardians regarding educational opportunities for children between six and fourteen years.

The constitutional architecture demonstrates that trafficking cannot be addressed through policing alone. Prevention requires functioning schools, social security, child-protection committees, labour inspection, effective birth registration, migration safeguards and community awareness. Investigation requires trained law-enforcement personnel. Rescue requires child-sensitive procedures. Rehabilitation requires education, counselling, healthcare, safe accommodation and compensation.

The Bharatiya Nyaya Sanhita, 2023 now provides the principal general criminal-law provisions. The legislation came into force on 1 July 2024. Section 143 criminalises trafficking and provides rigorous imprisonment ranging upward depending upon circumstances, with enhanced punishment for trafficking children, trafficking more than one child, repeat child trafficking and involvement of public servants or police officers. Section 144 separately addresses exploitation of trafficked persons.

These provisions operate alongside special legislation. POCSO protects persons below eighteen against sexual assault, sexual harassment and exploitation in pornography and establishes Special Courts. The Juvenile Justice Act creates a broader system of care, protection, rehabilitation and social reintegration based upon child-friendly processes and the best interests of children.

Official statistics confirm that trafficking and the wider vulnerability of children continue to require institutional attention. A 2026 Ministry of Home Affairs reply stated that NCRB's latest publication then available was *Crime in India 2024*. The reply also reported that 147,175 children were recorded as missing in 2024 within the relevant NCRB table, with 98,826 traced and 48,349 shown as untraced in that dataset, which includes previously untraced children. These figures must be interpreted carefully because a missing child cannot automatically be classified as a trafficked child. Nevertheless, missing-child investigations constitute an important point at which trafficking risk must be assessed.

The central argument of this article is that child trafficking must be understood through the principle of **constitutional vulnerability**. Vulnerability does not mean that children are passive objects of protection. Rather, their developmental circumstances and unequal bargaining power create positive obligations upon public institutions. A rights-based system must prevent exploitation where reasonably possible, respond rapidly when it occurs and restore the conditions necessary for the child to exercise constitutional freedoms after rescue.

Historical Background

The historical development of anti-trafficking law in India reveals a gradual transition from fragmented criminal prohibitions and morality-based regulation to a constitutional and human-rights understanding of exploitation. During the colonial period, various provisions of the Indian Penal Code, 1860 dealt with kidnapping, abduction, slavery, procurement and sale or

purchase of minors for prostitution. These provisions criminalised particular forms of conduct but did not establish a comprehensive theory of trafficking comparable to the modern international definition. Colonial approaches to prostitution and sexual exploitation also frequently focused upon public morality and regulation rather than the autonomy, dignity and rehabilitation of exploited persons.

The adoption of the Constitution in 1950 fundamentally altered the normative framework. Article 23 was included in Part III under the Right against Exploitation and expressly prohibited traffic in human beings, beggar and similar forms of forced labour. Article 24 separately prohibited employment of children below fourteen years in factories, mines and hazardous employment. This constitutionalizing was transformative. Trafficking was no longer simply conduct that Parliament might choose to criminalise; it became conduct inconsistent with a fundamental right. The Directive Principles reinforced that understanding by requiring State policy to ensure that children's tender age is not abused and that childhood is protected from exploitation and abandonment.

An early statutory response emerged through the Suppression of Immoral Traffic in Women and Girls Act, 1956, subsequently renamed the Immoral Traffic (Prevention) Act. The legislation was enacted in pursuance of India's international obligations concerning the suppression of traffic in persons and exploitation of prostitution. It criminalised brothel-keeping, living on earnings of prostitution, procuring persons and detaining persons in places where prostitution was carried on. The statute played an important historical role but also illustrated the tendency of early anti-trafficking law to concentrate disproportionately upon commercial sexual exploitation. Modern trafficking analysis now recognises that forced labour, begging, domestic servitude, criminal exploitation, slavery-like practices and organ removal must also be addressed.

The Bonded Labour System (Abolition) Act, 1976 expanded the legal attack upon economic exploitation. The Act abolished the bonded labour system and released bonded labourers from obligations to provide bonded labour. This legislation was especially important because trafficking frequently intersects with indebtedness, inter-generational poverty and exploitative labour recruitment.

The Supreme Court played an equally important role in expanding Article 23. In *People's Union for Democratic Rights v. Union of India* (1982), the Court interpreted forced labour

broadly and recognised that compulsion need not consist solely of physical force. Economic circumstances can undermine meaningful voluntariness where persons are compelled to work under exploitative conditions. This approach established the constitutional principle that Article 23 must be interpreted according to the social realities of exploitation rather than narrow contractual formalism. The Court's later jurisprudence has continued to recognise Article 23 as imposing an enforceable constitutional obligation against deeply rooted systems of forced labour.

In *Bandhua Mukti Morcha v. Union of India* (1984), the Court strengthened the relationship between bonded labour and human dignity. Public interest litigation allowed the judiciary to intervene on behalf of persons who, because of poverty and social marginalisation, were unable to effectively approach courts themselves. The decision also contributed to the emergence of a positive-obligation approach under which governmental authorities could not remain passive when fundamental rights were being violated through private systems of exploitation.

The Child Labour (Prohibition and Regulation) Act, 1986, subsequently renamed the Child and Adolescent Labour (Prohibition and Regulation) Act, represented another stage in legislative development. It sought to regulate and ultimately prohibit specified forms of child labour and has subsequently been strengthened through amendments. Although child labour and trafficking are distinct legal concepts, they overlap where recruitment or placement of children for work involves exploitation, coercion, deception, bondage or abuse of vulnerability.

International child-rights law transformed the discourse further. The Convention on the Rights of the Child, adopted in 1989, treated the child as an independent holder of rights rather than merely an object of adult welfare. Articles 34, 35 and 36 require States to protect children against sexual exploitation, abduction, sale, trafficking and other forms of exploitation harmful to their welfare. The CRC also introduced principles including the best interests of the child, non-discrimination, survival and development and meaningful consideration of children's views.

Indian judicial intervention increasingly reflected this rights-based orientation. In *Vishal Jeet v. Union of India* (1990), the Supreme Court dealt with child prostitution and exploitation and emphasised rescue, rehabilitation and governmental responsibility. In *Gaurav Jain v. Union*

of India (1997), the Court focused upon education, development and rehabilitation of children exposed to prostitution-related vulnerability. These decisions helped move anti-trafficking jurisprudence beyond punishment toward social reintegration.

The ILO's Worst Forms of Child Labour Convention, 1999 was another major international development. Convention No. 182 identifies the sale and trafficking of children, debt bondage, forced labour, use of children in prostitution and pornography and use of children for illicit activities as among the worst forms of child labour requiring urgent elimination. Its emphasis upon free basic education, rehabilitation and social integration demonstrated that exploitation must be addressed through developmental policy as well as criminal prohibition.

The Palermo Protocol of 2000 supplied the most influential contemporary international definition of trafficking. It conceptualised trafficking through the elements of action, means and exploitation while establishing a special rule for children: where a child is recruited, transported, transferred, harboured or received for exploitation, proof of coercive or deceptive means is unnecessary. This child-specific standard reflects the understanding that children cannot be expected to resist or understand exploitative recruitment in the same manner as fully autonomous adults.

The twenty-first century produced an increasingly integrated Indian child-protection framework. The Right to Education Act, 2009 strengthened prevention by establishing free and compulsory elementary education. POCSO in 2012 created comprehensive, gender-neutral protection against sexual offences involving persons below eighteen. The Criminal Law (Amendment) Act, 2013 introduced a more modern trafficking definition into the IPC through Section 370. The Juvenile Justice Act, 2015 later created a child-welfare architecture centred upon care, protection, rehabilitation and reintegration.

The Bharatiya Nyaya Sanhita, 2023 replaced the IPC from 1 July 2024 and placed trafficking primarily in Sections 143 and 144. Contemporary jurisprudence has continued to strengthen institutional accountability. In *Pinki v. State of Uttar Pradesh* (2025), the Supreme Court dealt with an organised interstate child-trafficking case, cancelled bail granted to accused persons and issued wider directions regarding expeditious child-trafficking trials and institutional action.

The trajectory culminated in *Prajwala v. Union of India* (2026), where the Supreme Court undertook a detailed examination of trafficking, constitutional rights and rehabilitation. The judgment specifically identified strengthening Anti-Human Trafficking Units, rehabilitation, victim non-criminalisation, the treatment of the “means” requirement in child trafficking, comprehensive legislation and cyber-enabled trafficking as important reform concerns. The historical evolution therefore demonstrates a clear movement: trafficking has developed from a narrowly penal and morality-centred issue into a constitutional question concerning liberty, dignity, childhood, development and State accountability.

Understanding the Vulnerability of Children to Trafficking

Children become vulnerable to trafficking through the interaction of personal, familial, economic and structural circumstances. Vulnerability should not be interpreted as a permanent characteristic of a particular community. It is better understood as a condition produced by unequal access to resources, information, protection and institutional support.

Economic deprivation is one of the most visible risk factors. Families facing unemployment, debt or food insecurity may find promises of employment, training or education for children attractive. Traffickers may exploit such aspirations rather than relying upon overt physical force. A parent may believe that a child is being placed in legitimate employment when the child is actually being transferred into exploitative labour.

Educational exclusion magnifies vulnerability. A child attending school regularly is connected to teachers, classmates and institutional monitoring. A child who drops out of school may disappear from formal systems capable of detecting abuse. The Right to Education framework should therefore be viewed not merely as educational policy but as part of trafficking prevention.

Migration creates additional risk where families travel for seasonal employment or children migrate independently in search of work. Informal labour contractors may exercise significant control over transport, accommodation, wages and identity documents. Children employed in domestic work or small establishments may remain physically invisible to labour inspection.

Gender also shapes trafficking patterns. Girls face particular risks of commercial sexual exploitation, forced marriage and domestic servitude. Boys may experience labour trafficking, begging, forced criminality or sexual exploitation that remains under-reported because of

stereotypes surrounding masculinity. A rights-based framework should therefore be gender-responsive without assuming that only one gender can be trafficked.

Caste, tribal status and social exclusion may intersect with economic vulnerability. Communities with limited access to education, social welfare and formal employment can be disproportionately targeted by labour recruiters. Likewise, children living on the streets, children without parental care, children in institutional settings, children with disabilities and children affected by disasters or displacement may possess fewer protective relationships.

The digital environment has generated new forms of vulnerability. Traffickers can identify children through social-media profiles, establish emotional relationships, offer employment or modelling opportunities and progressively isolate them from trusted adults. Online sexual exploitation can occur without initial physical movement, and digital content created through abuse may circulate indefinitely.

The principle underlying all these vulnerabilities is **abuse of unequal power**. Effective law must therefore address not only the final exploiter but also recruiters, intermediaries, transporters, harbourers, facilitators and persons who economically benefit from the exploitation.

Constitutional Framework for Protection of Children

Article 14: Equality and Equal Protection

Article 14 requires equality before law and equal protection of laws. For children vulnerable to trafficking, equal protection demands more than formally identical treatment. A child living on the street, a migrant child and a child in a secure family environment do not possess equal practical access to safety. Substantive equality therefore permits and may require targeted protective measures. The State must also avoid discrimination in rescue and rehabilitation. Protection should not depend upon caste, religion, gender, disability, migration status or the form of exploitation suffered.

Article 21: Dignity, Liberty and Bodily Integrity

Trafficking represents a direct attack upon Article 21. It deprives individuals of meaningful control over their movement, labour, body and future. In child cases, exploitation can interrupt education and psychological development at a formative stage.

The right to life with dignity requires more than removal from the trafficker. A rescued child who remains traumatised, uneducated, economically vulnerable and socially stigmatised has not been fully restored to constitutional freedom. The constitutional right to rehabilitation has therefore acquired increasing importance. The Supreme Court's 2026 *Prajwala* judgment devoted substantial attention to dignity and rehabilitation in the trafficking context and developed a detailed victim-protection approach.

Article 21A: Education as Prevention and Rehabilitation

Article 21A and the Right to Education Act provide free and compulsory education to children between six and fourteen. Education performs at least three anti-trafficking functions: it reduces children's economic isolation, creates institutional monitoring and expands future livelihood opportunities.

For rescued children, educational restoration should form part of rehabilitation. Bridge courses, flexible admission, age-appropriate placement and psychological support may be necessary where trafficking has caused substantial interruption.

Article 23: Direct Constitutional Prohibition

Article 23 expressly prohibits traffic in human beings and forced labour. Unlike many constitutional provisions directed primarily against the State, Article 23 is particularly significant because trafficking and forced labour frequently arise from private exploitation. The State's responsibility is therefore to maintain an effective legal and administrative system capable of preventing and punishing such violations. The expansive interpretation of forced labour in *People's Union for Democratic Rights* is highly relevant to trafficking. Exploitation may arise through economic compulsion and abuse of vulnerability as well as physical force.

Article 24 and Child Labour

Article 24 prohibits specified hazardous employment of children below fourteen. When read alongside child-labour legislation, Article 23 and Article 21A, it creates an integrated constitutional barrier against economic exploitation. Not every child-labour violation constitutes trafficking. However, where children are recruited, transported or received for exploitative labour, trafficking provisions may apply in addition to labour legislation.

Directive Principles

Articles 39(e) and 39(f) are central to constitutional childhood. They require the State to prevent abuse of children's tender age and ensure development in freedom and dignity. These principles should guide interpretation of rescue, institutional care, compensation and rehabilitation. The constitutional framework therefore requires a **continuum of protection**: prevention before trafficking, rescue during exploitation and reconstruction of rights after rescue.

Statutory Framework in India

Bharatiya Nyaya Sanhita, 2023

Section 143 BNS criminalises trafficking through recruitment, transportation, harbouring, transfer or receipt of persons for exploitation using specified means including threats, force, coercion, abduction, fraud, deception and abuse of power or vulnerability. Exploitation includes physical exploitation, sexual exploitation, slavery-like practices, servitude, beggary and forced removal of organs. Consent of the victim is immaterial in determining the offence where the statutory conditions are satisfied.

Trafficking of a child attracts rigorous imprisonment of not less than ten years and potentially imprisonment for life. Trafficking of more than one child carries still more severe punishment. Repeat child trafficking may result in imprisonment for the remainder of natural life. Public servants and police officers involved in trafficking are also exposed to exceptionally severe penalties.

Section 144 addresses exploitation of trafficked persons and provides specific punishment where a person knowingly engages a trafficked child for sexual exploitation.

An important doctrinal issue concerns the relationship between Section 143 and the Palermo Protocol. The Protocol expressly removes the requirement of proving coercive or deceptive “means” where the victim is a child. The Supreme Court in *Prajwala* specifically identified removal of the means requirement for children under the BNS trafficking definition as an area requiring attention. Legislative clarification would strengthen consistency with international child-protection standards.

POCSO Act, 2012

POCSO protects all persons below eighteen from sexual assault, sexual harassment and exploitation involving pornographic material and provides Special Courts.

Where a child has been trafficked for commercial sexual exploitation, POCSO and BNS trafficking provisions may operate together. Investigators should therefore avoid reducing the case to an isolated sexual assault where evidence indicates organised recruitment or commercial exploitation.

Juvenile Justice Act, 2015

The Juvenile Justice Act creates one of the most important rehabilitation frameworks. Its statutory purpose includes proper care, protection, development, treatment, social reintegration and child-friendly adjudication.

Child Welfare Committees play a central role in determining care and protection. A trafficked child should therefore be treated not merely as prosecution evidence but as a child requiring an individualised rehabilitation plan.

Immoral Traffic (Prevention) Act, 1956

The ITPA remains relevant to trafficking for commercial sexual exploitation and criminalises various activities connected with brothels, procurement and exploitation of prostitution.

The law must nevertheless distinguish trafficking from consensual adult sex work. This concern does not arise in the same manner for children because commercial sexual exploitation of a child cannot legitimately be treated as voluntary adult sex work.

Bonded Labour and Child Labour Legislation

The Bonded Labour System (Abolition) Act removes obligations arising from bonded labour and prohibits forcing persons to render such labour.

Child-labour legislation provides additional protection against economic exploitation. The ILO similarly identifies trafficking, debt bondage, slavery-like practices, prostitution, pornography and illicit activities among the worst forms of child labour.

The strongest cases therefore require coordinated use of criminal, child-protection and labour legislation rather than treatment of each violation in isolation.

Human Rights Analysis

The human-rights approach differs fundamentally from a purely criminal-law approach. Criminal law asks whether an offence occurred and whether the accused can be punished. Human-rights analysis asks a wider set of questions: Was the child adequately protected from foreseeable exploitation? Was the child identified promptly? Did authorities respond without discrimination? Was the rescue child-sensitive? Was the child protected from retaliation? Did the child receive healthcare, education, compensation and psychological support? Was reintegration safe?

The Convention on the Rights of the Child provides the strongest international foundation. Article 34 addresses sexual exploitation; Article 35 obligates States to prevent abduction, sale and trafficking of children for any purpose or in any form; Article 36 requires protection against other forms of exploitation.

Four general CRC principles are especially relevant. The first is non-discrimination. All trafficked children deserve protection irrespective of identity or nationality. The second is the best interests of the child. Decisions regarding shelter, family restoration, education and legal proceedings should be evaluated according to the child's safety and development rather than administrative convenience. The third is survival and development. Rehabilitation must therefore extend beyond physical survival. The fourth is child participation: children capable of expressing views should be heard in decisions substantially affecting them.

The human-rights approach also requires **non-criminalisation**. A child forced to beg, transport illegal substances or engage in sexual exploitation should not be treated primarily as an offender where the conduct was a direct consequence of trafficking.

Privacy is equally important. Disclosure of a child's identity can produce stigma, retaliation and long-term psychological harm. Media, police and judicial institutions should therefore maintain strict confidentiality.

Another important principle is effective remedy. Compensation should be accessible and timely. Delayed compensation issued after years of litigation may have little rehabilitative value when a child immediately needs education, healthcare and safe accommodation.

Institutional and Implementation Challenges

India's anti-trafficking framework involves multiple agencies: State police, Anti-Human Trafficking Units, Special Juvenile Police Units, Child Welfare Committees, District Child Protection Units, labour inspectors, prosecutors, courts, railway authorities, border authorities, schools, healthcare institutions and civil-society organisations.

Institutional plurality is useful only if coordination works. Fragmentation can cause cases to fall between jurisdictions. A labour inspector may identify illegal child labour without investigating recruitment networks. Police may rescue a child without ensuring continued education. A Child Welfare Committee may lack complete information regarding the criminal investigation.

The Ministry of Home Affairs stated in August 2026 that financial assistance had been provided for setting up or upgrading AHTUs and that 819 AHTUs were recorded as established as of 31 December 2024. Responsibility for staffing remains principally with State Governments and Union Territory administrations.

The same official answer reported 5,904 persons arrested and 110 persons convicted under human trafficking during 2024. These figures cover human trafficking generally, not exclusively child trafficking, and should not be treated as a case-conviction rate because they refer to persons rather than necessarily corresponding prosecutions. Nevertheless, the disparity illustrates why investigation quality, witness protection, prosecutorial capacity and timely trials require careful study.

Inter-State trafficking produces further difficulties because recruitment, transit, exploitation and rescue may occur in different jurisdictions. Effective investigation requires rapid information-sharing and coordinated prosecution.

Language barriers can create additional problems where trafficked children come from distant regions. Child-sensitive interpreters and support persons should therefore be available.

Missing Children and Trafficking Risk

Missing children and trafficked children are overlapping but legally distinct categories. A child may go missing because of family conflict, voluntary movement, accident, abduction or numerous other reasons. Conversely, some trafficking cases may initially appear only as missing-child complaints.

The correct policy approach is therefore neither to equate every missing child with trafficking nor to ignore trafficking risk. Missing-child investigations should include an early assessment of circumstances such as suspicious employment offers, unknown recruiters, migration routes, repeated disappearances and organised movement of children.

Official data reported through the Ministry of Home Affairs recorded 147,175 children as missing in the relevant 2024 NCRB table, with substantial numbers subsequently traced. This scale demonstrates why integrated missing-child databases, transport surveillance and interstate coordination are important elements of trafficking prevention.

The Supreme Court in *Pinki* similarly examined the relationship between missing children and trafficking within the broader context of organised child-trafficking networks.

Judicial Approach and Constitutional Accountability

The judiciary has repeatedly expanded the meaning of State responsibility toward vulnerable persons.

People's Union for Democratic Rights established that Article 23 must be interpreted broadly and that economic coercion can produce forced labour. *Bandhua Mukti Morcha* strengthened the role of constitutional remedies in addressing systemic labour exploitation.

Vishal Jeet shifted attention toward rescue and rehabilitation of sexually exploited children, while *Gaurav Jain* highlighted education and social integration.

More recently, *Pinki v. State of Uttar Pradesh* addressed alleged interstate trafficking of children and criticised an insufficiently careful approach to bail in serious trafficking cases. The Supreme Court issued directions aimed at more effective monitoring and expeditious trials.

The 2026 *Prajwala* decision represents a major contemporary development. The Supreme Court's detailed analysis addresses the Palermo framework, Article 23, the BNS, the ITPA, POCSO, the Juvenile Justice framework, rehabilitation and institutional mechanisms. It also identifies strengthening AHTUs, cyber-enabled trafficking and comprehensive legislation among important policy concerns.

Together, these cases demonstrate that constitutional courts increasingly view trafficking as a governance problem rather than merely an isolated offence.

International Perspectives

The international legal framework has fundamentally shaped contemporary understanding of child trafficking.

Convention on the Rights of the Child, 1989

The CRC is the principal international child-rights instrument. Article 32 addresses economic exploitation and harmful work. Article 34 concerns sexual exploitation and abuse. Article 35 requires States to take national, bilateral and multilateral measures against the abduction, sale or trafficking of children, while Article 36 protects children from other forms of exploitation prejudicial to welfare.

This breadth is significant because trafficking is not limited to sexual exploitation. International child-rights law recognises multiple exploitative purposes.

The CRC also treats recovery and reintegration as rights. This principle supports trauma-informed counselling, education, healthcare and dignified reintegration after rescue.

ILO Convention No. 182

ILO Convention No. 182 defines a child as every person below eighteen and classifies the sale and trafficking of children, debt bondage, slavery, forced labour, child prostitution, pornography and involvement in illicit activities among the worst forms of child labour.

The Convention emphasises immediate and effective measures for elimination and recognises the importance of basic education, rehabilitation and social integration.

Its approach reinforces a central proposition: trafficking cannot be eliminated solely by prosecuting traffickers. Families require social protection, adults require decent employment opportunities and children require access to education.

Palermo Protocol, 2000

The Palermo Protocol provides the most influential modern definition of trafficking. Adult trafficking generally involves three components: an action such as recruitment or transportation; a prohibited means such as coercion, deception or abuse of vulnerability; and the purpose of exploitation.

For children, the second element is unnecessary. Recruitment, transport, transfer, harbouring or receipt of a child for exploitation constitutes trafficking even where the prohibited means are not established. This distinction reflects the heightened protection owed to children and deserves clear incorporation into domestic legislation.

Optional Protocol on the Sale of Children

The Optional Protocol to the CRC concerning the sale of children, child prostitution and child pornography further expands international responsibility. Sale of children and trafficking overlap but are not identical concepts. A sale can occur without movement, while trafficking focuses upon exploitation and the trafficking process.

This distinction is particularly relevant to illegal adoption, sale of infants and commercial transactions involving children.

Sustainable Development Goals

The Sustainable Development Goals reinforce these obligations. SDG 8.7 calls for effective measures against forced labour, modern slavery, human trafficking and the worst forms of child labour. International development policy therefore recognises trafficking as simultaneously a rule-of-law, labour, education, poverty and human-development issue.

Comparative Lessons

Comparative international practice increasingly supports specialised multidisciplinary units, child-friendly interviewing, witness protection, non-punishment of victims, cross-border cooperation, financial investigation and long-term rehabilitation.

India can draw from such practices while designing responses appropriate to its federal structure, large informal labour market and substantial internal migration.

The core international lesson is that **children should never bear the burden of proving that they resisted exploitation sufficiently**. Their age itself requires a heightened standard of State protection.

Recommendations

India's anti-trafficking framework could be strengthened through several reforms.

- First, Section 143 BNS should be reviewed to expressly clarify that the “means” element need not be proved where the person trafficked is below eighteen years, thereby aligning the statutory text unmistakably with the Palermo Protocol. The Supreme Court itself identified this issue in *Prajwala*.
- Second, the country should move toward stronger integration of trafficking, missing-child, child-labour and child-protection databases. Integration should remain subject to privacy safeguards.
- Third, Anti-Human Trafficking Units should have dedicated investigators, adequate budgets and specialised training rather than functioning merely as nominal units added to ordinary policing structures.
- Fourth, every child-trafficking case should trigger immediate coordination between investigating officers, Child Welfare Committees and District Child Protection Units.
- Fifth, rescue protocols should minimise repeated interviews. Wherever possible, child-friendly forensic interviewing should reduce secondary trauma.
- Sixth, rehabilitation plans should be individualised. Not every child can safely return immediately to the family or community from which trafficking occurred.
- Seventh, education should become a formal indicator of rehabilitation. Authorities should record whether a rescued child has been returned to school, provided bridge education or enrolled in vocational programmes appropriate to age.

- Eighth, compensation mechanisms should operate promptly. Interim compensation should be available where immediate rehabilitation needs exist.
- Ninth, labour departments should be more fully incorporated into anti-trafficking strategies, particularly in sectors involving informal and migrant labour.
- Tenth, specialised attention should be given to digital recruitment. Police cyber units and AHTUs should cooperate in investigating social-media grooming, fraudulent online recruitment and technology-facilitated sexual exploitation.
- Eleventh, financial investigation should accompany trafficking prosecutions. Organised trafficking is profit-driven; confiscating proceeds can be as important as arresting individual intermediaries.
- Twelfth, children compelled to participate in begging, drug transport or other illegal activities as a consequence of trafficking should be treated primarily through victim-protection principles rather than criminalised.
- Thirteenth, cross-State coordination requires standard protocols concerning rescue, transfer, evidence collection and restoration.
- Fourteenth, national and State governments should periodically publish outcome-based data covering investigation, charge sheets, trials, convictions, compensation, school reintegration and re-trafficking rather than measuring success only through rescue numbers.

Finally, India should continue examining the desirability of comprehensive legislation integrating prevention, prosecution, victim identification, rescue, rehabilitation and inter-agency responsibility. The Supreme Court's *Prajwala* judgment specifically recognises the continuing relevance of consideration of a comprehensive trafficking framework.

CONCLUSION

Human trafficking of children represents one of the clearest situations in which constitutional law, criminal justice and human rights intersect. A trafficked child can simultaneously lose liberty, bodily autonomy, education, family connections, physical health, psychological

security and economic opportunity. The consequences may continue long after the trafficking episode ends.

The Indian Constitution provides a strong legal foundation for responding to this harm. Article 23 expressly prohibits trafficking and forced labour. Article 24 addresses child exploitation in hazardous employment. Article 21 protects dignity and personal liberty. Article 21A guarantees elementary education, while Articles 39(e) and 39(f) require children to be protected against exploitation and allowed to develop in conditions of freedom and dignity.

This constitutional framework is supplemented by an extensive statutory structure. Sections 143 and 144 BNS criminalise trafficking and exploitation of trafficked persons and impose enhanced punishment where children are involved. POCSO addresses sexual exploitation, the Juvenile Justice Act provides care and rehabilitation mechanisms, and bonded-labour, child-labour and education laws address significant structural dimensions of vulnerability.

Yet legislation by itself does not guarantee justice. The principal difficulty lies in converting legal protection into functioning institutions. Weak identification, fragmented investigation, delayed trials, inadequate rehabilitation and lack of long-term monitoring can reduce the effectiveness of otherwise strong statutory provisions.

The constitutional approach requires recognition that rescue is only the beginning of justice. A child physically removed from an exploitative environment but left without education, counselling, identity documents, healthcare or economic support remains highly vulnerable.

International law provides the same message. The CRC treats children as rights-holders. ILO Convention No. 182 connects trafficking with the worst forms of child labour. The Palermo Protocol applies a particularly protective rule to children by eliminating the requirement of proving coercive or deceptive means.

Contemporary Supreme Court jurisprudence further indicates that anti-trafficking governance must address institutional systems. *Pinki* highlighted the gravity of organised child trafficking and the need for effective trials, while *Prajwala* has placed rehabilitation, institutional coordination, cyber-enabled trafficking and statutory reform at the centre of contemporary debate.

The most appropriate model for India is therefore a **rights-based continuum of protection** involving prevention, identification, rescue, investigation, prosecution, rehabilitation, reintegration and prevention of re-trafficking.

A child should never be viewed simply as a commodity recovered from a trafficker or a witness necessary for securing conviction. The child is an independent constitutional rights-holder.

The effectiveness of Indian anti-trafficking governance should consequently be measured by a more demanding question: **after State intervention, has the child genuinely regained dignity, safety, education, autonomy and the opportunity to build a future free from exploitation?**

Only when the answer increasingly becomes affirmative can the constitutional promise against trafficking be considered fully realised.

FUTURE SCOPE

Future research on child trafficking should increasingly focus upon empirical evaluation of the Bharatiya Nyaya Sanhita after its commencement on 1st July 2024. Studies should examine registration patterns under Sections 143 and 144, investigation quality, prosecution outcomes and judicial interpretation of exploitation, consent and vulnerability.

The relationship between the BNS definition and the Palermo child-trafficking standard requires particular study. The Supreme Court's 2026 identification of the “means” requirement as a reform issue creates substantial scope for doctrinal research.

Second, future studies should examine missing-child data longitudinally. Researchers should determine what proportion of missing children are ultimately identified as victims of trafficking and which indicators most effectively predict trafficking risk.

Third, cyber-enabled trafficking requires urgent interdisciplinary research. Artificial intelligence, social media, encrypted messaging, online gaming and digital payment systems are transforming recruitment and exploitation. Future legal scholarship should examine how investigative technology can be used without compromising children's privacy and due-process protections.

Fourth, greater attention should be paid to trafficking for forced labour. Public discourse frequently associates trafficking predominantly with commercial sexual exploitation, whereas children may also be exploited in domestic work, agriculture, manufacturing, construction, begging and informal service sectors.

Fifth, gender-differentiated research is necessary. The specific experiences of girls, boys and transgender children may vary substantially, and policy should reflect differences without creating gaps in protection.

Sixth, future research should focus upon children with disabilities, tribal children, migrant children, children in institutional care and children affected by disasters and climate displacement.

Seventh, longitudinal rehabilitation studies should assess whether rescued children remain in education, obtain employment as adults, receive compensation and avoid re-trafficking.

Eighth, comparative research may evaluate anti-trafficking systems in other jurisdictions and assess which institutional models could be adapted to India's federal system.

Ninth, the effectiveness of India's 819 recorded AHTUs should be studied through staffing levels, investigation outcomes, inter-State cooperation and specialised training rather than merely through their numerical existence.

Finally, research should develop measurable standards of **constitutional anti-trafficking governance**. Such standards should evaluate not merely arrests and convictions but prevention, child participation, education, psychological recovery, compensation, safe reintegration and freedom from subsequent exploitation.

The future of anti-trafficking policy lies in recognising that the true objective is not simply to rescue a child from one exploitative situation but to remove the structural conditions that allow another trafficker to exploit the same vulnerability.

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